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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,298	06/20/2003	Julian N. Nikolchev	016355-002580US	6671
7590 James Scheller, Esq. Blakely Sokoloff Taylor & Zafman LLP 1279 Oakmead Parkway Sunnyvale, CA 94085			EXAMINER BROWN, MICHAEL A	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 06/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,298	NIKOLCHEV ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Brown	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-21,35-37 and 82-105 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12-18,35 and 36 is/are allowed.
- 6) Claim(s) 19-21,37 and 82-105 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>All IDS</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21, 37 and 82-105 rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan '328 in view of Hess '978, along with Heaven.

Kaplan discloses in figures 1-6C a tubular structure 4, having a first end, a second end and a lumen 12 and a tissue ingrowth element (14, 16 contain growth inhibitors, col. 7, lines 60-66), the tubular element is expandable from a first configuration to a second configuration (col. 3, lines 2-4), includes lattice framework (6, 8) and open walls (formed between 6 and 8). The tubular element can be inserted into a fallopian tube (col. 9, lines 25-28). However, Kaplan doesn't disclose the tubular element being made of cooper. Hess teaches in figures 1-13 a heat recoverable tissue supporting device comprising a tubular member 10 that is expandable from a first configuration to a second configuration, having a lattice framework (16, 18) and an open wall structure (fig. 1). The tubular member can be made of copper alloy (col. 1, lines 50-52). Heaven teaches in figure 6-9 a tubular structure made of a copper alloy (col. 1, lines 48-55). The tubular member is expandable from a first configuration to a second smaller configuration. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the tubular member disclosed by Kaplan

Art Unit: 3772

could be fabricated to expand from a first configuration to a second configuration as taught by Hess to allow the tubular member to occlude a passage in the body. The open framework would allow tissue to grow into the tubular member and the ingrowth element would allow tissue to grow around the tubular element. The copper alloy as taught by Heaven would allow the tubular member disclosed by Kaplan to be formed of copper and to expand from a first smaller configuration to a second larger configuration.

***Allowable Subject Matter***

Claims 12-18 and 35-36 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Brown  
June 9, 2007



MICHAEL A. BROWN  
PRIMARY EXAMINER